

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

JOSEPH JEMSEK, M.D., )  
Plaintiff, )

V. )  
)

**JUDGMENT IN A CIVIL CASE**  
**CASE NO. 5:16-cv-59-D**

NORTH CAROLINA MEDICAL BOARD; )  
JANELLE R. RHYNE, M.D., individually )  
and in her official capacity as past member )  
of the Board; ROBERT MOFFATT M.D., )  
individually and in his official capacity as )  
past member of the Board; H. ARTHUR )  
MCCULLOCH M.D., individually and in )  
his official capacity as past member of the )  
Board; ALOISIUS P. WALSH, )  
individually and in his official capacity as )  
past member of the Board; E.K. )  
FRETWEEL, PH.D., individually and in )  
his official capacity as past member of the )  
Board; MICHAEL E. NORINS, M.D., )  
individually and in his official capacity )  
as past member of the Board; GEORGE L. )  
SAUNDERS III, M.D., individually and in )  
his official capacity as past member of the )  
Board; SARVARESH SATHIRAJU M.D., )  
individually and in his official capacity as )  
past member of the Board; DICKY S. )  
WALIA, individually and in his official )  
capacity as past member of the Board; )  
RALPH LOOMIS, M.D. individually and )  
in his official capacity as past member of )  
the Board; DON JABLONSKI M.D. )  
individually and in his official capacity as )  
past member of the Board; CHERYL )  
WALKER-MCGILL, MD; individually and )  
in her official capacity as a member of the )  
Board; PASCAL UDEKWU, MD, )  
individually and in his official capacity as a )  
member of the Board; HELEN DIANE )  
MEELHEIM, FNP-BC, individually and in )  
her official capacity as a member of the )  
Board; SUBHASH C. GUMBER, MD, )

PHD, individually and in his official )  
 capacity as a member of the Board; )  
 TIMOTHY E. LIETZ, MD, individually )  
 and in his official capacity as a member of )  
 the Board; DEBRA A. Bolick, MD, )  
 individually and in her official capacity as )  
 a member of the Board; ELEANOR E. )  
 GREENE, MD individually and in her )  
 official capacity as a member of the Board; )  
 BARBARA E. WALKER, DO, )  
 individually and in her official capacity as )  
 a member of the Board; A. WAYNE )  
 HOLLOMAN, Public Member )  
 individually and in her official capacity )  
 as a member of the Board; MICHAEL J. )  
 ARNOLD, MBA individually and in his )  
 official capacity as member of the Board; )  
 BRYANT A. MURPHY, M.D., MBA, )  
 individually and in his official capacity as )  
 member of the Board; RALPH A. )  
 WALKER LLB, JD, individually and in his )  
 official capacity as member of the Board. )  
 Defendants. )

**Decision by Court.**

This action came before this Court for ruling as follows.

IT IS ORDERED, ADJUDGED, AND DECREED that the Eleventh Amendment bars Jemsek's claims against the NCMB and Boardmember defendants in their official capacities, and Jemsek lacks standing to pursue his individual capacity claims against the current Board members and his individual-capacity and official-capacity claims against the former Board members. Alternatively, Jemsek fails to state a claim upon which relief can be granted for violation of the Sherman Act. Accordingly, the court GRANTS defendants' motion to dismiss [D.E. 68].

**This Judgment Filed and Entered on February 21, 2017, and Copies To:**

Jacques G. Simon	(via CM/ECF electronic notification)
Robert A. Meynardie	(via CM/ECF electronic notification)
Matthew W. Sawchak	(via CM/ECF electronic notification)
Stephen D. Feldman	(via CM/ECF electronic notification)
Steven A. Scoggan	(via CM/ECF electronic notification)
Andrew H. Erteschik	(via CM/ECF electronic notification)

John Michael Durnovich

(via CM/ECF electronic notification)

DATE:

February 21, 2017

JULIE RICHARDS JOHNSTON, CLERK

(By) /s/ Nicole Briggeman

Deputy Clerk